

Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (Prisoner)

UNITED STATES DISTRICT COURT

FILED
U.S. DISTRICT COURT
AUGUSTA DIV.

for the

Southern District of Georgia

Augusta Division

2022 FEB 28 A 9:25

CLERK
SO. DIST. OF GA.

Case No. CV 121-172

(to be filled in by the Clerk's Office)

Wesley Vandale Harris

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

Mr. Timothy C. Ward, Commissioner

Mr. Terry E. Barnard, Chairman

Mr. Stand Shepard, Regional Director

Edward Philbin Warden (A.S.M.P.)

All Care & treatment staff/Health Services

Defendant(s)

Administration

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

COMPLAINT FOR VIOLATION OF CIVIL RIGHTS

(Prisoner Complaint)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (Prisoner)

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name

Wesley Vandale Harris

All other names by which
you have been known:

ID Number

GDC#1204507/EF#592203

Current Institution

Augusta State Medical Prison

Address

3001 Gordon Highway

Grovetown

City

Georgia

State

30813

Zip Code

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (*if known*) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name

Timothy C. Ward

Job or Title (*if known*)

Commissioner (Georgia Department of Corrections)

Shield Number

Employer

Georgia Department of Corrections

Address

3001 Patrol Road

Forsyth

City

Georgia

State

31029

Zip Code

☐ Individual capacity ☒ Official capacity

Defendant No. 2

Name

Terry E. Barnard

Job or Title (*if known*)

Chairman (Georgia Board of Pardons and Paroles)

Shield Number

Employer

Georgia Department of Corrections

Address

3001 Patrol Road

Forsyth

City

Georgia

State

31029

Zip Code

☐ Individual capacity ☒ Official capacity

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Defendant No. 3

Name

Stand Shepard

Job or Title (if known)

Regional Director

Shield Number

Employer

(Georgia Department of Corrections)

Address

300 Patrol Road

Forsyth
CityGeorgia
State31029
Zip Code☐ Individual capacity ☐ Official capacity

Defendant No. 4

Name

Edward Philbin

Job or Title (if known)

Warden - Augusta State Medical Prison

Shield Number

Employer

(Georgia Department of Corrections)

Address

3001 Patrol Road

Forsyth
CityGeorgia
State31029
Zip Code☐ Individual capacity ☐ Official capacity

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

- ☐ Federal officials (a *Bivens* claim)
- ☒ State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

XIV Procedural Due Process - Equal Protection (Georgia Constitution of 1983, Paragraph 1, life, liberty and property)
 IV Security from unwarrantable Search and Seizure (Article I, section 1) Property
 VI Trial by Jury in civil case

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

Paragraph 1 Life, Liberty, and Property
 No person shall be deprived of life liberty, or property except by
 XIV "Due process of Law." - Equal Protection
 Amendment to the U.S. Constitution

- D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

Warden Edward Philbin - Failed to protect me from Excessive Force on Behalf of Cell Team Officers
 Deputy Warden Pascal - Fail to do investigation into the theft of my Personal Property

III. Prisoner Status

Indicate whether you are a prisoner or other confined person as follows (check all that apply):

- ☐ Pretrial detainee
- ☐ Civilly committed detainee
- ☐ Immigration detainee
- ☒ Convicted and sentenced state prisoner
- ☐ Convicted and sentenced federal prisoner
- ☐ Other (explain) _____

IV. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- Excessive Force by way of Prison Guards*
Unsafe and Sanitary living Conditions
Illegal Search and Seizure
- A. If the events giving rise to your claim arose outside an institution, describe where and when they arose.
- Specialized Mental Health treatment Dormitory E-1/11-B-1/11-B-2/
 Crisis Stabilization Nursing Units 2B - E - 3B

- B. If the events giving rise to your claim arose in an institution, describe where and when they arose.

Georgia Department of Corrections
 Augusta State Medical Prison
 Between the years 2020 / 2021 / 2022

- C. What date and approximate time did the events giving rise to your claim(s) occur?

During a long drawn out recurring period of the years 2020/2021/2022 - exact time can be produced through Incident Reports Date shift logs @ A.S.M.P. during the the Plaintiff Mr. Wesley V. Harris in being housed in 13 Area ~~11 Area~~ / 28 & 3B / NU

- D. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)

I was beaten Choked and strangled in hand cuffs upon C.S.U. admission.
I was Robbed, Strong Armed, Threatened and intimidated Raped by Gang Members. Subjected to Identity Theft

V. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

I was beaten in the head, and sustained scars too my right hand. Staples were applied too my head - through blunt forced trauma. There is documentation through shift logs and Medical Records and Incident Reports. I've experienced long term tortuous harm too my Mental Health and State of mind, Deplavation of my Character, etc.

VI. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

I request the Court to order - the G.D.C. to do a thourow investigation into the theft of my Personl Property. I Seek monetary award for my Loss, Pain and Suffering and Extended life term - Physical and Mental Health ailments, Caused by Added Stress and agravation. Loss of wages that were to be earned through my mail order retail Sale of my "Creative Art." work productions.

VII. Exhaustion of Administrative Remedies Administrative Procedures

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted." *I have filed several - unanswered Grievances.*

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

☒ Yes

☐ No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

Augusta State Medical Prison

B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

☒ Yes

☐ No

☐ Do not know

C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

☒ Yes

☐ No

☐ Do not know

If yes, which claim(s)?

*torturous heat and frigid temperatures
Positionings Delivery of the wrong medication
Delayed Response time in Answering Grievances and Medical
Request/Deliberate Indifference/Mail Theft
Illegal Search and Seizure*

*Excessive Force - by way of prison Guards
Unsafe and Sanitary Living Conditions.*

*Violation of United Nations Standard Rule of or for the
treatment of prisoners, (the Nelson Mandela Rule)*

- D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

☒ Yes

☐ No

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

☒ Yes

☐ No

- E. If you did file a grievance:

1. Where did you file the grievance?

Calhoun State Prison
Augusta State Medical Prison

2. What did you claim in your grievance?

Unfair treatment and Aggravation Caused by
Prison Staff. Theft or loss of property.

3. What was the result, if any?

Investigation Was Never Done.
Paperwork was discarded and unprocessed.

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. (Describe all efforts to appeal to the highest level of the grievance process.)

I've appealed to the Warden, and
Exhausted my Procedural Grievance State
Remedies.

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

N/A

2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

Warden Edward Philben
Deputy Warden Pascal
Srgt. Crite / Unit manager Mr. C. Brown

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

I have written Inmate Affairs and
Several Civil Rights advocate organizations

(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)

VIII. Previous Lawsuits

The "three strikes rule" bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has "on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had a case dismissed based on this "three strikes rule"?

☐ Yes

☒ No

If yes, state which court dismissed your case, when this occurred, and attach a copy of the order if possible.

I have filed one other claim against -
Calhoun State Prison, Voluntary Attorney Dismissal -
- resulting in conflict of interest,
State Bar against - Plaintiff's former Attorney
Case # Can be obtained through records.

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- A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

☐ Yes

☒ No

- B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s) _____

Defendant(s) _____

2. Court *(if federal court, name the district; if state court, name the county and State)*

3. Docket or index number

4. Name of Judge assigned to your case

5. Approximate date of filing lawsuit

6. Is the case still pending?

☐ Yes

☐ No

If no, give the approximate date of disposition. _____

7. What was the result of the case? *(For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)*

The Case was dismissed
through ineffective Assistance of Counsel.

- C. Have you filed other lawsuits in state or federal court otherwise relating to the conditions of your imprisonment?

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☒ Yes

☐ No

D. If your answer to C is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s) _____

Defendant(s) _____

2. Court *(if federal court, name the district; if state court, name the county and State)*

3. Docket or index number

4. Name of Judge assigned to your case

5. Approximate date of filing lawsuit

6. Is the case still pending?

☐ Yes

☐ No

If no, give the approximate date of disposition _____

7. What was the result of the case? *(For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)*

IX. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing:

2-21-2022

Signature of Plaintiff

Wesley V. Harris

Printed Name of Plaintiff

Wesley Vandale Harris

Prison Identification #

GDC#1204507 / EF#392203

Prison Address

Augusta State Medical Prison / 3001 Gordon Hwy.
Grovetown Georgia 30817

City

State

Zip Code

B. For Attorneys

Date of signing:

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Address

City

State

Zip Code

Telephone Number

E-mail Address

To: U.S. District Court
Clerk

Please Note: This is a second copy
of my amended Complaint.

Safety precaution in case of
file play of mail held on
behalf of inmates, or corrupt
prison staff.

Via In response to the Court's
order. Time lines - of -
Processing Procedure.

Wesley V. Harris
A.S. M.P.
2-21-2022

Wesley Vandale Harris
GDC#1204507/EP#592203
Dorm E-1 / 11-B-1 / Cell #204
Augusta State Medical Prison
3001 Gordon Highway
Grovetown, GA. 30813



Clerk, U.S. District Court
Post office Box 1130
Augusta, Georgia 30903